

**SUPREME COURT OF CALIFORNIA  
ORAL ARGUMENT CALENDAR  
LOS ANGELES SESSION  
APRIL 4 and 5, 2006**

**(FIRST AMENDED)**

The following cases are placed upon the calendar of the Supreme Court for hearing at its courtroom in the Ronald Reagan State Office Building, 300 South Spring Street, 3rd Floor, North Tower, Los Angeles, California, on April 4 and 5, 2006.

**TUESDAY, APRIL 4, 2006—9:00 A.M.**

- |     |         |   |
|-----|---------|---|
| (1) | S128248 | John B. v. Superior Court of Los Angeles County<br>(Bridget B., Real Party in Interest)                         |
| (2) | S123659 | Big Creek Lumber Co. v. County of Santa Cruz  |
| (3) | S128640 | People v. Wells (Susan) ( <i>Baxter, J., not participating;<br/>Croskey, J., assigned justice pro tempore</i> ) |

**1:30 P.M.**

- |     |         |  |
|-----|---------|--|
| (4) | S122816 | People v. Hudson (Gregory)                   |
| (5) | S127649 | Ordlock v. Franchise Tax Board               |
| (6) | S072946 | People v. Gonzalez (Jose) [Automatic Appeal] |

**WEDNESDAY, APRIL 5, 2006—9:00 A.M.**

- |     |         |   |
|-----|---------|---|
| (7) | S127921 | Carter v. California Department of Veterans Affairs |
| (8) | S123133 | People v. Brendlin (Bruce)                          |
| (9) | S122744 | People v. Saunders (Devance)                        |

**2:00 P.M.**

- |      |         |  |
|------|---------|--|
| (10) | S129110 | Estate of Saueressig (Timothy)   |
| (11) | S121724 | People v. Cole (Pearle Vision) ( <i>Werdegard J., not participating;<br/>Ikola, J., assigned justice pro tempore</i> ) |
| (12) | S127602 | People v. Johnson (Jay)<br>( <i>to be called and continued to the early May 2006 calendar</i> )                        |

**KENNARD**

*Acting Chief Justice*

If exhibits are to be transmitted to this court, counsel must comply with rule 18(c) of the California Rules of Court.

The following case summaries are issued to inform the public and the press of cases that the Supreme Court has scheduled for oral argument and of their general subject matter. Generally, the descriptions set out below are reproduced from the original news release issued when review in each of these matters was granted and are provided for the convenience of the public and the press. The descriptions do not necessarily reflect the view of the court or define the specific issues that will be addressed by the court.

**TUESDAY, APRIL 4, 2006—9:00 A.M.**

***(1) John B. v. Superior Court of Los Angeles County (Bridget B., Real Party in Interest), S128248***

#04-126 John B. v. Superior Court of Los Angeles County (Bridget B., Real Party in Interest), S128248. (B169563; 121 Cal.App.4th 1000; Superior Court of Los Angeles County; BC271134.) Petition for review after the Court of Appeal granted in part and denied in part a petition for peremptory writ of mandate. The court limited review to the following issues: (1) Under California law, may a person be held liable for failure to disclose to a sexual partner the fact that the person has a sexually transmissible disease only when the person *actually knows* he or she has a sexually transmissible disease (see *Doe v. Roe* (1990) 218 Cal.App.3d 1538) or also when the person *reasonably should have known* he or she has such a disease? (2) If the duty to disclose is limited to situations in which a person actually knows he or she has a sexually transmissible disease, did the discovery permitted by the Court of Appeal in the present case violate either traditional standards of discovery (e.g., relevance) or constitutionally protected rights of privacy?

***(2) Big Creek Lumber Co. v. County of Santa Cruz, S123659***

#04-54 Big Creek Lumber Co. v. County of Santa Cruz, S123659. (H023778; 115 Cal.App.4th 952; Superior Court of Santa Cruz County; CV134816, CV137992.) Petition for review after the Court of Appeal affirmed in part and

reversed in part the judgment in a civil action. This case presents the following issue: Do the state timber laws (Gov. Code, § 51100 et seq. [California Timberland Productivity Act of 1982]; Pub. Resources Code, § 4511 et seq. [Z'berg-Nejedly Forest Practice Act of 1973]) preempt all county regulation of timber harvesting, including the designation of zoning districts where harvesting can take place and the permissible location of helicopter operations related to timber harvesting?

***(3) People v. Wells (Susan) (Baxter, J., not participating; Croskey, J., assigned justice pro tempore), S128640***

#04-150 People v. Wells (Susan), S128640. (F043125; 122 Cal.App.4th 155; Superior Court of Kern County; BF101553A.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses. This case presents the following issue: Does an anonymous tip that a driver of a motor vehicle appears to be driving under the influence afford reasonable suspicion to support a police officer's stopping of the vehicle, where the information given by the anonymous informant cannot be corroborated except as to facts (e.g., the description of the vehicle at the designated location) that do not themselves point to any criminal activity?

**1:30 P.M.**

***(4) People v. Hudson (Gregory), S122816***

#04-43 People v. Hudson (Gregory), S122816. (B162812; unpublished opinion; Superior Court of Los Angeles County; BA226321.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court limited review to the following issues: (1) What circumstances properly should be considered in determining whether a peace officer's motor vehicle is "distinctively marked" within the meaning of section 2800.1(a)(3) of the Vehicle

Code? (2) Does the trial court have a sua sponte duty to instruct the jury regarding the meaning of the term “distinctively marked” as used in that section, and if so, how should that term be defined?

**(5) *Ordlock v. Franchise Tax Board*, S127649**

#04-136 *Ordlock v. Franchise Tax Board*, S127649. (B169465; 120 Cal.App.4th 1366; Superior Court of Los Angeles County; BC278386.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case includes the following issue: Does the four-year statute of limitations for issuing a notice of a proposed deficiency assessment (Rev. & Tax. Code, § 19057) preclude the Franchise Tax Board from imposing a deficiency assessment upon a taxpayer after the four-year period when the deficiency assessment is based upon a change in the taxpayer’s federal tax liability for the relevant tax year and the taxpayer failed to notify the Franchise Tax Board of the change? (See Rev. & Tax. Code, §§ 18622, 19059, 19060.)

**(6) *People v. Gonzalez (Jose) [Automatic Appeal]*, S072946**

This matter is an automatic appeal from a judgment of death.

**WEDNESDAY, APRIL 5, 2006—9:00 A.M.**

**(7) *Carter v. California Department of Veterans Affairs*, S127921**

#04-133 *Carter v. California Department of Veterans Affairs*, S127921. (E030908; 121 Cal.App.4th 840; Superior Court of San Bernardino County; BCV03693.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case includes the following issues: (1) Prior to its amendment by Statutes 2003, chapter 671, did the Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) impose a duty on an employer to take reasonable steps to prevent hostile environment sexual harassment of an employee *by a client* with whom the employee is required to interact? (2) If not, did the Legislature intend the 2003 amendment to apply retroactively to incidents that occurred prior

to the effective date of the amendment? (3) If so, would application of the 2003 amendment to such cases violate the due process clause of the state or federal Constitution?

**(8) *People v. Brendlin (Bruce)*, S123133**

#04-31 *People v. Brendlin (Bruce)*, S123133. (C040754; 115 Cal.App.4th 206; Superior Court of Sutter County; CRF012703.) Petition for review after the Court of Appeal reversed a judgment of conviction of a criminal offense.

**(9) *People v. Saunders (Devance)*, S122744**

#04-32 *People v. Saunders (Devance)*, S122744. (H025674; unpublished opinion; Superior Court of Santa Clara County; CC246493.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

*Brendlin* and *Saunders* include one or more of the following issues:

(1) When a car is subjected to a traffic stop, is a passenger in the car “seized” or “detained” within the meaning of the Fourth Amendment, so that the passenger may challenge the validity of the traffic stop in contesting the admissibility of evidence obtained from the passenger after the stop? (2) May a car that has expired registration tags but that also has a temporary registration permit be legally stopped to investigate the validity of the temporary permit? (3) Can a parolee subject to a search condition challenge his detention as invalid if police were not aware he was on parole at the time they detained him?

**2:00 P.M.**

**(10) *Estate of Saueressig (Timothy)*, S129110**

#04-149 *Estate of Saueressig (Timothy)*, S129110. (B167907; 122 Cal.App.4th 1086; Superior Court of Los Angeles County; BP 076076.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case

presents the following issue: Can the statutory requirement that a will be signed by at least two qualified witnesses (Prob. Code, § 6110) be satisfied where an otherwise qualified witness does not sign the will until after the testator's death?

***(11) People v. Cole (Pearle Vision), S121724 (Werdegar J., not participating; Ikola, J., assigned justice pro tempore)***

#04-15 People v. Cole (Pearle Vision), S121724. (D040475; 113 Cal.App.4th 956; Superior Court of San Diego County; GIC783135.) Petition for review after the Court of Appeal affirmed in part and reversed in part an order issuing a preliminary injunction in a civil action. The court limited review to the following issue: Does the Knox-Keene Health Care Service Plan Act of 1975 (Health & Saf. Code, § 1340 et seq.) exempt approved providers under the act from the limitations that Business and Professions Code sections 665 and 2556 otherwise impose on business and financial relationships between dispensing opticians and optometrists or ophthalmologists?

***(12) People v. Johnson (Jay), S127602 (to be called and continued to the early May 2006 calendar)***

#05-212 People v. Johnson (Jay), S127602. (A085450; unpublished opinion; Superior Court of Contra Costa County; 96-0691-4.) On remand from the United States Supreme Court in *Johnson v. California*, No. 04-6964. This case presents the following issue: What is the appropriate remedy for *Wheeler/Batson* error (*People v. Wheeler* (1978) 22 Cal.3d 258; *Batson v. Kentucky* (1986) 476 U.S. 79) in this case—outright reversal of defendant's conviction or a limited remand to permit the trial court to inquire into the prosecutor's reasons for removing minority jurors?